



City Of San Diego
COUNCILMEMBER JIM MADAFFER
DISTRICT SEVEN

MEMORANDUM

M-06-10-03 Please refer to this number when responding to this memo

DATE: October 11, 2006

TO: Mayor Jerry Sanders
City Attorney Michael Aguirre

FROM: Councilmember Jim Madaffer, Chair Land Use & Housing Committee

SUBJECT: Impact of Mini Dorms in the City of San Diego

On Tuesday, September 19, I held a community forum in the College Area pertaining to the public nuisance referred to as mini dorms. We anticipated 200 residents; we accommodated 330 and turned away approximately 100.

The negative impact of mini dorms is not isolated to the College Area. This quality of life issue in our single family neighborhoods is prevalent throughout the City of San Diego.

In fact, as a result of news coverage from our Mini Dorm Forum, many of my SANDAG colleagues, representing cities throughout the County of San Diego indicated they had similar problems in their cities. I also heard from members of the City Council who indicated a growing problem with mini dorms in their districts as well. Mini dorms and the public nuisances they cause are a problem of City-wide significance.

In the 7th City Council District, virtually every block in the College Area is being impacted as a result of the thousands of students attending nearby San Diego State University. Other neighborhoods in my district such as Rolando, Allied Gardens, City Heights and Del Cerro are heavily impacted as well.

There is no question the City of San Diego must make changes to our municipal code to protect single family zones while being mindful of the affordable housing crisis in our City. I intend to pursue the legislative changes necessary here in San Diego and at the State level to address this growing concern. I am asking that you please work with me toward solving these issues.

At our standing room only community forum, a number of questions and recommendations were brought up by the residents and I am providing some of them here for comment and potential action. Many of these suggestions provide a common-sense approach to solving this crisis through a series of changes to our municipal code. I am asking that the City's Development Services Department, Code Enforcement Department and the City Attorney's Office provide appropriate recommendations to the following:

1. Please outline the appropriate steps to impose a temporary building/conversion moratorium in the College Area until a reasonable solution can be crafted to stop the destruction of a single family neighborhood. This would be similar to the Interim Development Ordinance that was adopted by the City Council in the late 1980s.
2. Virtually every mini dorm is operated by an off-site owner. The rental of these properties constitutes a business. This requires a rental unit business tax be paid. Mini dorms are effectively a multi-family dwelling unit business. Why aren't these businesses subject to the same rules/regulations that apply to operating a home business? Home occupation permits require lengthy zoning reviews and scrutiny. How is it that a mini dorm operator can escape these requirements when in fact they are operating as a business? This one issue alone would make great strides toward solving the parking dilemma. Businesses are also required to maintain their landscaping. The same should apply to rental housing units. Please explain how these businesses have been escaping these requirements. Please provide suggested modification to the municipal code so we can pursue these ideas.
3. How can SDSU be required to provide a larger percentage of on-campus housing?

We are painfully aware the Paseo project has been delayed indefinitely. This project must be reactivated as it provides housing for over 1,000 students. There are other dormitories pending at SDSU but nothing is happening. The Sorority Row project, which would have provided even more housing in the area, was recently canceled by SDSU. We are moving backward here, not forward. The

City must be more aggressive in making the University to do its part to provide housing. No work or action on any Master Plan for SDSU should be considered unless these basic and fundamental issues are addressed. Perhaps the City might seek a moratorium on student population growth at SDSU until the student housing matter is better addressed.

4. How can the City ensure that as soon as a building permit is signed off, that beds are not added to rooms not designed as a bedroom? Routinely, houses are being expanded and the plans say the additional rooms are for a den or family room when in fact they are used as rental bedrooms. Currently the construction must be approved as submitted. Contacting the property owner in advance and arranging for a site visit gives them ample time to move the beds out of the room or to cut walls to create simple partitions that do not qualify as bedrooms. Increasing fines for non-compliance of permitted construction is another area that should be explored.
5. Please explain the process and changes we need to make to the municipal code that would require any rentals in an R-1 zone to have a Conditional Use Permit.
6. Please explain the process where we could establish an overlay zone for the College Area that would spell out specific guidelines for maintaining residences as single family homes.
7. Please detail how we can impose a moratorium on garage conversions in the College Area.
8. Since the residents of our City are rightfully complaining and expect us to provide them the peaceful enjoyment of their single family homes in their single family neighborhoods, and because the overwhelming majority of problems are caused by SDSU students occupying these single family homes, what liability can the City of San Diego assess against SDSU?
9. Mini dorms are basically apartments. How can the City regulate mini dorms using apartment guidelines?
10. Can the "B" Permit Parking Program include wording that if a residence is classified as a mini dorm, only two permits can be issued?
11. How can the City stop front yards from being cemented over to accommodate more off-street parking? Currently only 30% of a portion of the front yard needs to be landscaped. The percentage needs to be greatly increased.

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12. We need a more stringent program for enforcing illegal room conversions and more serious repercussions for landlords and tenants for excessive trash and noise, failure to maintain landscaping, and continued unruly behavior of tenants. This includes a review of the current fines for non-compliance – they may be too low and increasing fines could be a better deterrent.

Attached is a document outlining what other communities in California are doing in to work towards a solution to the mini dorm problem.

The mini dorm issue has been docketed for the City Council's Land Use and Housing Committee on November 29, 2006. I would appreciate responses to these questions from Departments under the Mayor as well as responses from the City Attorney's office prior to the docket material deadline date of November 16, 2006.

Thank you for your serious attention to this matter.

cc: Honorable City Council Members
Independent Budget Analyst
City Attorney
City Clerk

Mini-dorms and Dwelling Units with Multiple Bedrooms

Jurisdiction	Commenter	Response
City of Davis	Katherine Hess Planning and Redevelopment Administrator,	<p>Original Question: Do other jurisdictions grapple with proposals for rental units with many bedrooms?</p> <p>We're getting proposals for duplexes with up to five bedrooms per side, aimed at the student market. The buildings may meet standards, but we're having trouble assessing and mitigating the neighborhood impacts. We've amended the zoning to require additional parking for more bedrooms, but will likely need to go further. And we're struggling with whether we can even go beyond the physical project to deal with potential neighborhood problems of mini-dorms like noise, on-street parking, visual blight, etc.</p> <p>The issue isn't students per se. We expect a lot of single-family and duplex units to be rented to students. And if it weren't for the University, we would be [insert your favorite depressed central valley town here]. But there appears to be a "critical mass" limit with a cut-off at five or so bedrooms, where the bad consequences escalate.</p> <p>When we had this problem in Austin, Texas (another University town), the zoning ordinance was changed to classify duplexes with this many bedrooms as a multi-family use like apartments rather than as a single family residential traditional duplex use. This triggered greater setback, increased landscaping, more parking, etc.</p> <p>This is out of our Code, it sets some standards which may mitigate a few of the problems associated with crowding to many bedrooms in too small a space.</p> <p>MEDIUM DENSITY Group open space shall be defined as usable open space on the site which is available to all occupants of the development to be used by all residents. This open space shall be generally distributed throughout the development and must be reasonably</p>
Austin (via Berkeley)	Carol D. Barrett, FAICP Director, Planning & Development Berkeley, CA 94704	
Bellflower	Pam Welty, Community Development	

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		<p>accessible to all the dwelling units.</p> <p>(a) Area. The area required will be based upon the number of bedrooms per unit as follows:</p> <p>(1) Bachelor unit (no bedrooms): Three hundred (300) square feet per unit.</p> <p>(2) One bedroom unit: Four hundred (400) square feet per unit.</p> <p>(3) Two (2) bedroom unit: Five hundred fifty (550) square feet per unit.</p> <p>(4) Three (3) bedroom unit: Seven hundred (700) square feet per unit.</p> <p>(5) Larger units: One hundred (100) square feet per unit.</p> <p>Off-Street Parking. Off-street parking shall be provided as follows:</p> <p>1. A minimum of two (2) enclosed parking spaces shall be provided for the first two (2) bedrooms of each dwelling unit.</p> <p>2. One (1) parking space shall be provided for each bedroom after the first two (2) bedrooms.</p> <p>3. One-half (1/2) of an uncovered parking space shall be provided for each unit for the designated use of visitors.</p> <p>Minimum Floor Area. The minimum floor area shall be as follows:</p> <p>Unit Type Minimum Floor Area</p> <p>Bachelor and single 500 square feet</p> <p>One bedroom 700 square feet</p> <p>Two (2) bedroom 900 square feet</p> <p>Three (3) bedroom 1100 square feet</p> <p>For each additional bedroom above three (3), the required unit size shall be increased by a minimum of one hundred fifty (150) square feet.</p> <p>MULTI-FAMILY</p> <p>Minimum Floor Area. The minimum floor area shall be as follows:</p> <p>UNIT TYPE MINIMUM FLOOR AREA</p> <p>Bachelor and single 500 square feet</p> <p>One bedroom 700 square feet</p> <p>Two (2) bedroom 900 square feet</p>

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		<p>Three (3) bedroom 1,100 square feet</p> <p>For each additional bedroom above three (3) the required unit size shall be increased by a minimum of one hundred fifty (150) square feet.</p> <p>Off-Street Parking: Off-street parking shall be provided as follows:</p> <ol style="list-style-type: none"> 1. A minimum of two (2) enclosed parking spaces shall be provided for the first two (2) bedrooms of each dwelling unit. 2. One (1) parking space shall be provided for each bedroom after the first two (2) bedrooms. 3. One-half (1/2) of an uncovered parking space shall be provided for each unit for the designated use of visitors.
Fremont	Doug Lyerla Code Enforcement Officer Fremont	<p>Here in Fremont, we have had people pulling permits to convert all common rooms except the kitchen to bedrooms. We have found whole family units living in each bedroom. This practice essentially turns a single family residence into an overused, under designed apartment complex.</p> <p>Placing restrictions on number of bedrooms per covered parking space is a reasonable idea. Also, an ordinance to preserve common rooms (dining rooms, living rooms, family rooms) may be worth considering.</p>
La Cañada Flintridge	Frederick W. Buss, AICP Senior Planner Community Development Department La Cañada Flintridge, CA 91011	<p>Have you looked at it from the aspect of the Twaine/Hart decision (case law - issue of density). All dwelling densities are supposed to be based on a population density per acre. You could be meeting the du/ac range in the General Plan but far exceeding the pop density per acre on which the General Plan is really based (according to Twain). You may have grounds to reduce the number of units based on the pop expected to reside within each unit.</p>
La-Verne	Arlene Andrew	<p>Claremont and La Verne do not allow overnight on-street parking - one tiny suggestion. Also, if these are "de facto" dormitories in residential zones, aren't they really institutional uses that should not be permitted? Perhaps multiple family developments with dwelling units having 4 or</p>

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		more bedrooms should be permitted only with a conditional use permit due to density issues, noise etc. Could you allow only so many per block, or separate them by x number of feet, similar to large family day care homes and establishments that sell alcohol? Arlene Andrew
Lomita	Richard Kawasaki	Our ordinance requires a third garage space for any home with 5 or more bedrooms. We count everything except living room, dining room, bathrooms, kitchen, laundry room and breakfast room as not being a bedroom. What are you going to do with the second unit ordinance? We are going to require a parking space for each bedroom. It seems like the proposals could easily be for a single family home with a second unit. Wouldn't that proposal be a ministerial action? I think you need an ordinance amendment anyway for the second unit law. You might as well amend the parking requirement for larger homes. We have a noise ordinance for residential property that is enforced by the police: 55 DbA at the property line after 9 PM. Loud parties get one warning and the second visit costs the property owner the salary charges incurred by the city for the second visit plus a fine. Davis is a nice town. Maybe you should have a student housing district.
Newport Beach	Jim Sinasek Code Enforcement Supervisor	I am sure you have considered Adamson v Santa Barbara. The case set the stage for non sanguine relationships occupying single uses as long as the entire facility is shared equally. The case occurred, I believe, about 1980. Let me know if you need more help tracking it down.
Oakland (via Hercules)	Elizabeth Dunn, AICP, Senior Planner Community Development and Public Services	The City of Oakland has a requirement in the Zoning Ordinance that if a new house is to be constructed with 5 or more bedrooms, and it is not to

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	Department City of Hercules	be occupied by the property owner (verification with utility bills), a CUP is required. They encountered a similar situation in the area near Mills College (and Peralta College I believe).
Saratoga	Tom Sullivan	We don't have the problem, but it seems like there is going to be more noise, more traffic, a greater need for off-street parking, etc. etc. I hope you get some good advice from other "university" towns.
Turlock	Dana McGarry, AICP Senior Planner Community Development Services Turlock	I don't have a solution. I would warn you that trying to exact requirements that you wouldn't from any other duplex or single family home may make you vulnerable to discrimination complaints. Many cities require one parking space per bedroom for single family; perhaps you can do the same. Good luck!
September 19, 2006 Survey Results		
San Diego	Elyse Lowe	Sept. 2006 request for information- San Diego City Councilmember Jim Madaffer requests assistance with developing ideas for regulating "mini-dorms" throughout San Diego. Mini-dorms occur primarily in areas that have large student populations. Single family homes are rented by one or two tenants who in turn sublet bedrooms and other spaces to additional tenants (sometimes 8 or more.) This creates a party environment in the neighborhood as sometimes there are several mini-dorms per block. Accompanied by at least one car per tenant, the availability of on-street parking is severely impacted. Additionally, these single family neighborhoods are seeing countless 3-4 bedroom homes remodeled with the augmentation

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City of Salinas	Andrew Myrick Associate Planner andym@ci.salinas.ca.us	<p>Although we don't have any universities, our code specifies that no more than six residents may live in a boardinghouse, regardless of the size of the dwelling. This keeps the problem from getting too out of hand, although we have not had to deal with the concentration issues (i.e. near a college) that you probably have had to deal with. I will note, though, the enforcement of these regulations is difficult.</p> <p>Its a combination of multiple Sections. The definition (Section 37-21) is:</p> <p>(72) "Interim housing" means shared living quarters, without separate kitchen and bathroom facilities for each room or unit, intended to meet short-term shelter and/or other immediate needs. Interim housing includes, but is not limited to the following:</p> <table><tr><td>Homeless shelters;</td><td>Emergency shelters;</td></tr><tr><td>Fraternalities;</td><td>Sororities;</td></tr><tr><td>Dormitories;</td><td>Boardinghouses;</td></tr><tr><td>Labor camps;</td><td>Halfway houses.</td></tr></table>	Homeless shelters;	Emergency shelters;	Fraternalities;	Sororities;	Dormitories;	Boardinghouses;	Labor camps;	Halfway houses.
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		<p>Interim housing is prohibited in Single-Family Dwelling zones, and allowed by CUP in multifamily residential zones. However, the following footnote appears in our base district regulations for all residential districts:</p> <p>Small residential care facilities and interim housing serving six or fewer people and small family day care homes serving eight or fewer people are permitted. Such facilities shall be designed to accommodate a group living environment or be appropriate for small family day care.</p> <p>On a side note, Labor Camps are also not permitted in any R-M District, although it may be irrelevant to your question.</p> <p>Here's the link: http://municipal.codes.lexisnexis.com/codes/salinas/</p>
San Luis Obispo		<p>I recommend you check with the City of San Luis Obispo. They've dealt with this issue for years, resulting from students attending Cal Poly.</p>
San Luis Obispo		<p>Check with the City of San Luis Obispo, who <u>adopted</u> regulations that <u>require a business license for property owners who rent out their homes.</u></p> <p>From this they are able to regulate the number of tenants within each household based on General Plan density requirements.</p>
City of Santa Cruz		<p>City of Santa Cruz faces similar problems. Although we don't have a</p>

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	Carol Berg Housing & Community Development Manager	<p>solution yet, I'd be very interested in the response to your inquiry, if you could share them with us.</p> <p>We have done two things that seem to help. The first is ever widening circles of neighborhoods with parking restrictions, expanding out from UCSC and bus stops on UCSC lines. The second thing the City did was to implement a "party ordinance" (Section 9.37 of our Municipal Code) which goes after the property owner. The interesting twist is that violations are attached to the property and are carried with the property for a year, even if the property is sold during that time. Fines increase with the number of violations.</p>
City of Davis	Bob Wolcott Principal Planner City of Davis Community Development Department rwolcott@ci.davis.ca.us	<p>We have a current urgency ordinance on this same subject. It requires a use permit for remodeled houses with 6 or more bedrooms. We soon will be process a zoning ordinance amendment addressing this for new or remodeled houses in our zoning ordinance. For more info, please contact Cathy Camacho on our planning staff at ccamacho@cityofdavis.org.</p>
City of Murrieta	Jim Mackenzie, AICP Senior Planner JMackenzie@murrieta.org	<p>We are going to consider some revisions to our zoning regulations pertaining to "Rooming and Boarding Houses" based upon Attorney General's opinion No. 01-402 (86 Op. Atty. Gen. Cal. 30). This opinion states that uses such as the mini-dorm you describe can be prohibited from R-1 neighborhoods based on several related impacts. This A.G. opinion should give your legal staff a basis for drafting an ordinance.</p>
City of Soledad,	Susan Hlinski Community Development Department	<p>In response to your HCED question, this over-crowding is a difficult problem, the ultimate cause being a lack of affordable housing. Towns and cities here in the Salinas Valley are experiencing similar problems</p>

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	Susan@cityofsoledad.com	<p>(except for the partying) related to overcrowding in single-family residential neighborhoods. I believe the ultimate solution is to create a lot of higher density apartments, SRO's and townhomes with adequate amenities (e.g., parks, increased unit size, sufficient common open space, private open space, private storage, etc. etc.) in areas where there is a demonstrated need. In short, we're talking redevelopment.</p> <p>In addition, if one or more blocks have effectively become student housing, perhaps it's time to look at rezoning those neighborhoods to allow for higher densities. Would recommend that you personally contact some of the university cities that have had to address similar types of problems in the past such as the cities of Chico and Davis.</p> <p>In terms of short-term solutions, all that you really can do is to diligently enforce zoning violations such as garage conversions and parking in the front yard and violation of the building codes' minimum standard for amount of livable space required per occupant. But, again, these are "band-aid" measures and will not address the crux of the problem which is a deficit of affordable housing for that population group.</p>
City of Madera	W. Roger Anderson Neighborhood Preservation Specialist III randerson@cityofmadera.com	We have a "Boarding House" ordinance in our Municipal Code which defines a Boarding house, wherein 5 or more individuals live and pay rent as individuals.

Minidorm_survey.doc